

Things You Should Know About Establishing Paternity for Your Child in Arizona



This booklet is designed to give you general information about establishing paternity for a child and to let you know what you can expect when the court is involved in the process.

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Establishing Paternity for Your Child in Arizona

Each year, thousands of children in the state of Arizona are born to parents who are unmarried. In 2000 alone, this number exceeded 33,000, accounting for nearly 40 percent of all children born in the state and the rate continues to grow. Like all children, those born to unmarried parents deserve to know their identity, their medical/genetic background, to be supported emotionally and financially by both parents and, in time of need, to receive insurance and other necessary benefits through both parents. The parents also have the right to a relationship with their child. These are some of the reasons why it is important that paternity be established for every child.



Questions & Answers

Q. What does it mean to establish paternity?

A. Establishing paternity means being declared the legal father after the child is born. If the parents of a child were not married when the mother became pregnant or when the child was born, the child does not have a legal father until paternity is established.

Q. Why is it important to establish paternity?

A. Establishing paternity is important for both the child and the parents.

A child is entitled to the sense of belonging and identity that comes from knowing both parents. Establishing paternity often has an important emotional and psychological benefit for the child. Also, until there is a determination that a biological father is the legal father, the child has no right to receive financial support from the father, to inherit from the father or to obtain insurance, veterans', social security or other benefits through the father.

Likewise, until paternity is legally established, the biological father has no legal rights to the child, such as parenting time (formerly called visitation) with the child, and no legal right to participate in major decisions about the child, such as medical treatment, education or religious training.

Questions & Answers

Q. How is paternity legally established?

A. In Arizona, paternity can be legally established in several ways. These may be summarized in four categories: voluntary establishment through the court, establishment by the court after filing a legal action (court case), establishment through the state Department of Economic Security (DES) and establishment by automatic operation of law through the state Department of Health Services.

Q. Does it matter how paternity is legally established?

A. No. Whether paternity is established voluntarily, administratively or by court action, the result is the same. In each case, the biological father becomes the legal father.

Q. What is voluntary paternity establishment?

A. People may believe that paternity can only be legally established by filing a case in court and having a judge decide the issue after testing is done or other proof is submitted; however, if both parents agree who the biological father is, legal paternity often can be established by a simple process that does not require a court hearing and witnesses do not need to be sworn. This is called voluntary paternity establishment.

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Q. How can I establish paternity voluntarily through the court?

A. Both parents may agree to establish paternity by filing one of the following documents with the Clerk of the Superior Court in any Arizona county (a listing of clerks' offices is provided at the back of this booklet):

- An affidavit in which both parents agree that the named father (also known as the "alleged father") is the biological father of the child, or
- An agreement that the mother, the alleged father and the child will take a genetic test (usually a blood test) and have legal paternity decided by the test results, or
- A birth certificate *signed* by both parents (this type of birth certificate is not issued in Arizona but may be available if the child was born in another state).

When any of these documents is filed, the Clerk of the Superior Court issues an order that establishes legal paternity (if the parents submit an agreement for genetic testing, the testing laboratory must first provide the results). The Clerk of the Superior Court's order is as effective as an order signed by a Superior Court judge. [Note: If the mother is married, or was married during the ten-month period before the child was born or when the child was born, other requirements may be necessary to

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establish paternity voluntarily because the husband, under Arizona law, is presumed to be the legal father.]

Also note: This order does **not** establish child support payments, parenting time or parenting time schedules, medical insurance and other benefits to the child.

Q. What if the man is not sure he is the father?

A. If both parents are willing, they may file an agreement with the Clerk of Superior Court to take a genetic test (usually a blood test) to determine if the man is the biological father.

Q. Are genetic tests accurate?

A. New methods of scientific testing are nearly one hundred percent accurate in proving whether a man is the father of a child. Most testing laboratories now use DNA testing. The test results can show conclusively if a man is *not* a child's father or can show that a man is the father to a high degree of certainty.

Q. How can I establish paternity voluntarily through the Arizona Department of Health Services (DHS)?

A. Under Arizona law, in order to place the name of the father on a birth certificate, **both** parents may

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file sworn statements acknowledging paternity with DHS. When this process is used, the voluntary acknowledgment has the same effect as a court order establishing legal paternity of the father. These forms are available at DHS and DES offices around the state and at most hospitals (see the listing for DHS and DES offices at the back of this booklet).

Q. Are there any other ways paternity may be established when the parents agree who the father is?

A. Yes. There is a program offered at all Arizona hospitals by DES that allows parents of newborn children to establish paternity voluntarily at the time of birth. Parents complete a form acknowledging paternity that is sent directly by the hospital to DES. Both parents must fill out and sign the form. If parents do not complete the form at the hospital, it may be sent to DES later. The form is then processed and forwarded either to the DHS or the Clerk of Superior Court. Either way, if the forms are completed properly, paternity can be established without further action by the parents. The paternity forms may also be obtained from any DES public assistance office or from the DES Division of Child Support Enforcement (or its county contractors in some counties).

Note: These documents establish paternity only. Child support, parenting time and other benefits must be established by court order.

Questions & Answers

Q. Is it required that *both* parents sign the paternity acknowledgment forms?

A. Yes. Legal fatherhood cannot be voluntarily established without the agreement of both the mother and the alleged father. In this way both parents are protected from false claims.

Q. What if the mother is married to someone other than the biological father?

A. Under Arizona law, if the mother was married any time in the ten-month period before the baby is born or when the baby is born, the husband is presumed to be the child's legal father. In this situation, the voluntary process to establish paternity for the biological father can only be used if the husband gives written consent to another man being declared as the father. If the husband will not consent, court action may be necessary to establish paternity. If the husband cannot be located after reasonable effort, paternity may be established without his consent.

Q. Can the voluntary process be used to establish paternity for all children in the family?

A. Yes. The voluntary establishment process may be used for any child whose legal father has not been determined.

Questions & Answers

Q. What if parents cannot agree to establish paternity?

A. Parents sometimes are not able to agree to establish paternity. This may be because the identity of the putative father is uncertain or because the putative father is not willing to assume the responsibilities of fatherhood. If the parents do not agree, the voluntary establishment processes cannot be used; however, paternity may still be established by the court or, if one of the parents applies for services, DES can assist in establishing paternity. These actions filed with the court are heard prior to other civil proceedings and are set for early trial. A sample flow chart showing a typical sequence of events in a paternity case is included in this booklet.

Q. How can I ask the court to help establish paternity when we do not agree or know who the father is?

A. To establish paternity through the court, one of the parents must file documents necessary to start a court case. This can be done during the mother's pregnancy or any time before the child reaches the age of eighteen. Either the mother or the putative father must file a written "complaint" with the Clerk of the Superior Court, stating the names and social security numbers of each person involved and indicating who the father is claimed to be. The person who files the complaint must have it served

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on the other party, who then has an opportunity to respond. Usually, the court then orders that genetic testing be done. If the results of the test indicate a likelihood of paternity of 95% or more, the man is presumed to be the father. Most often the case is then resolved, but it is possible that a court trial may be necessary if the presumed father continues to dispute paternity. Persons considering filing a court action may wish to consult an attorney to assist them.

Q. If a court case is started, and paternity is decided, what will the court order?

A. When a court case is concluded (and the person claimed to be the father is proven by genetic testing or otherwise to be the biological father), the court will issue an order establishing legal paternity. In some circumstances, the court also may order an amount to be paid for future child support, for any past child support that is due, an amount to be paid for the costs of the child's birth and medical insurance coverage for the child. A parenting time (formerly called visitation) schedule may also be established by the court order.

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Q. How can the state child support agency assist in establishing paternity if the parents cannot agree?

A. In Arizona, DES is authorized by law to help establish paternity for persons who apply for services. DES can order or the parents can agree that genetic testing be done. If test results establish at least a 95% likelihood of paternity, DES may be able to make an agreement with the father to establish paternity. If not, DES can start a court case to establish paternity. Often, child support issues are also resolved through this process; however DES cannot help with custody or visitation issues. These must be handled separately through the Superior Court. You may wish to consult an attorney to assist with these matters. To apply for services, contact the DES office in your county or call the DES Customer Service number, (602) 252-4045 in Maricopa or (800) 882-4151 to obtain specific information in your county.

Q. Where can I get forms to assist me in establishing paternity?

A. Forms are available from the Clerk of the Superior Court, DES, DHS or at hospitals. In Maricopa County, forms are available through the Self Service Center located at the downtown, the south-east and the northwest courthouses (see listings for all Clerk of Superior Court offices statewide at the

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back of this booklet). Forms also may be obtained on the Internet at :

<http://www.maricopa.gov/supcrt/ssc/sschome.html>

Q. Do the voluntary methods of establishing paternity take care of child support, custody issues, medical insurance and parenting time (visitation) schedules?

A. No. Voluntary establishment of paternity procedures available through DES, DHS, hospitals or the Clerk of Superior Court do not deal with the amount of child support to be paid, medical insurance, a parenting time (visitation) schedule for the father and the child or other benefits. These issues, if the parents cannot reach an agreement, must be handled through the Superior Court after the voluntary establishment of paternity by the person requesting the benefits or rights. The court encourages the parents involved in issues of custody, parenting time schedules, child support or other benefits or issues to reach agreement. If no agreement is reached, the court decides these issues in a trial.

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Q. My son is only 16 years old, is still in high school, has no job and has been served with a petition to establish paternity and child support. If paternity is established and child support ordered, how does the support get paid?

A. If you have custody or control of your son, you may be joined as a defendant to the court action if your son is a minor or was a minor at the time the court action for paternity was filed. You and your son's father may be held jointly responsible with your child for the child support until your son turns 18.

Words & Definitions

Biological Father - The man who fathers a child by impregnating the mother. The biological father is not a legal father unless paternity is established or presumed by law.

CPTC - In Maricopa County, a term for the Comprehensive Pretrial Conference. All contested cases are assigned to a judge of the Superior Court. If the case does not settle, a pretrial conference is usually set. The purpose of the pretrial conference is to further narrow the issues, encourage preparation and set the case for trial.

DCM - In Maricopa County, a required conference with the case manager in cases where attorneys are not representing the parties. This conference is held after the Respondent files his or her Response with the court. It is also referred to as the Differentiated Case Management conference. It is designed for early court involvement and case screening. The case manager helps the parties narrow the issues in the case and facilitates

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agreements by the parties. The parties are required to prepare a statement for their agreements and disagreements during this process.

Genetic Testing - A scientific method for determining paternity involving the taking of samples (usually blood samples) from a mother, child and putative father, then comparing the results. These tests are sometimes referred to as DNA tests because the information in the samples compares the DNA, or basic chemical codes, found in each person's body.

Legal Father - A biological father who has been legally established to be a child's father and who then is entitled to the rights and responsibilities of parenthood under the law.

Motion to Set - A written request filed with the court asking that a hearing be set, with specific date, time and place.

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Paternity -

Paternity means being the legal father. If a woman is married when a child is born, the husband is presumed to be the father. If parents are unmarried, the child does not have a legal father until paternity is established.

Presumed father -

A person who the law assumes is the father of a child because he was married to the mother during pregnancy or when the child was born.

Putative Father -

A person claimed to be a biological father. When paternity is legally established, a putative father becomes the legal father.

Voluntary paternity establishment -

One of several methods to establish legal fatherhood for a child when the parents agree on the father's identity.

Locations for Obtaining Forms

Clerks of the Superior Court

Apache County

70 West 3rd South
St. Johns, AZ 85936
(928) 337-7550

Cochise County

County Courthouse
Bisbee, AZ 85603
(520) 432-9364

Coconino County

200 N. San Francisco
Flagstaff, AZ 86001
(928) 779-6535

Gila County

1400 E. Ash
Globe, AZ 85501
(928) 425-3231

Graham County

800 Main St.
Safford, AZ 85546
(928) 428-3100

Greenlee County

County Courthouse
Clifton, AZ 85533
(928) 865-4242

La Paz County

1316 Kofa Ave., Suite 607
Parker, AZ 85344
(928) 669-6131

Maricopa County

201 W. Jefferson
Phoenix, AZ 85003
(602) 506-3676

Mohave County

County Courthouse
Kingman, AZ 86402-7000
(928) 753-0790

Navajo County

County Courthouse
Holbrook, AZ 86025
(928) 524-4188

Pima County

110 W. Congress
Tucson, AZ 85701
(520) 740-3201

Pinal County

County Courthouse
Florence, AZ 85232-2730
(520) 868-6296

Locations for Obtaining Forms

Clerks of the Superior Court

Santa Cruz County

Santa Cruz County Complex
2150 North Congress Drive
Nogales, AZ 85621
(520) 375-7700

Yavapai County

County Courthouse
Prescott, AZ 86301
(928) 771-3312

Yuma County

168 S. 2nd Ave.
Yuma, AZ 85364
(928) 329-2164

Hospital Paternity Program
1-800-485-6908

Locations for Obtaining Forms

Department of Health Services Vital Records Offices

Arizona Department
of Health Services
Office of Vital Records
2727 W. Glendale
Phoenix, AZ 85051
(602) 364-1237

Community Prevention
and Public Health
Vital Registration
150 W. Congress, Room 194
Tucson, AZ 85701-1317
(520) 740-8522 or 8523

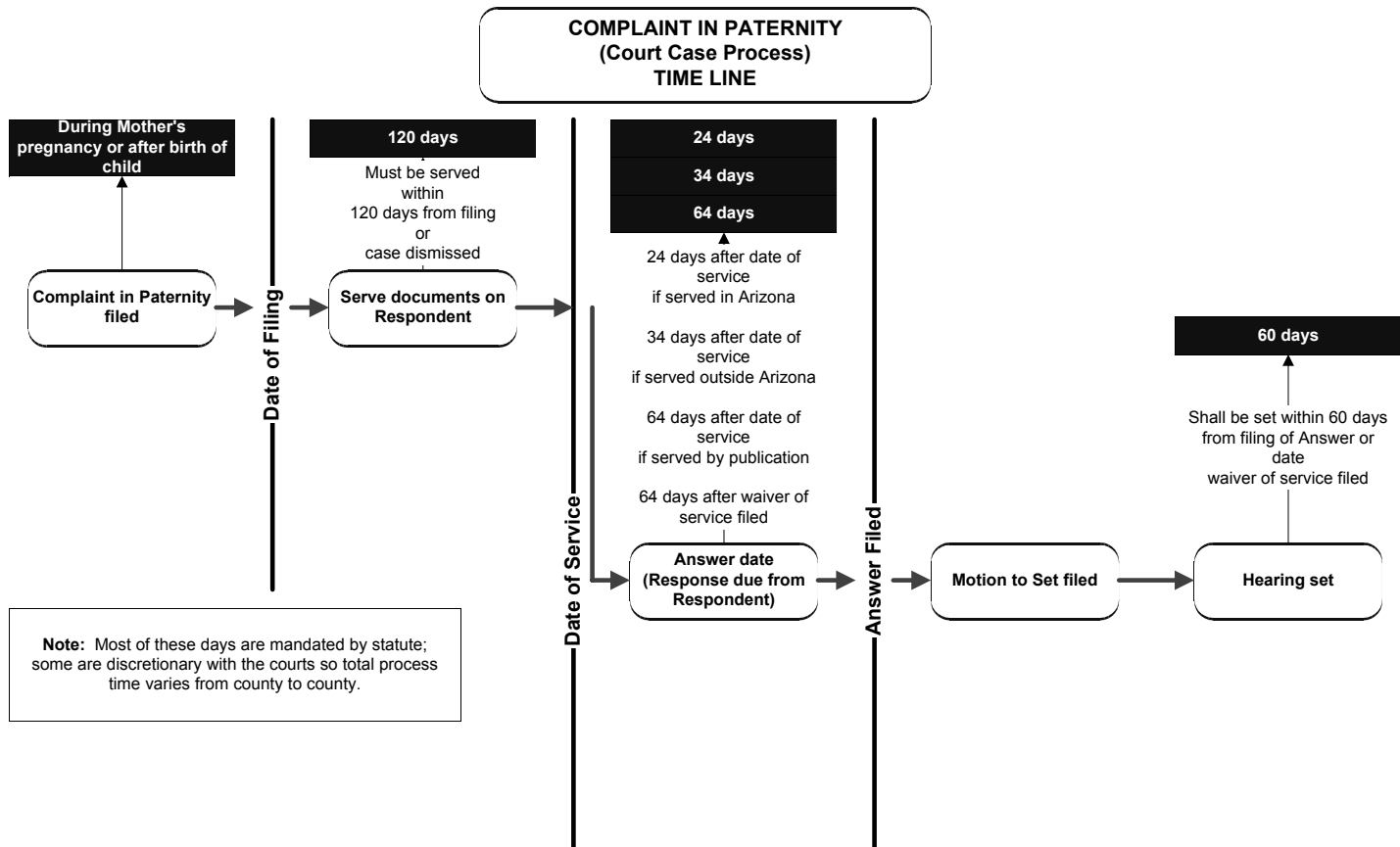
Maricopa County
Department of
Public Health
Office of Vital Statistics
1825 E. Roosevelt
Phoenix, AZ 55001-2111
(602) 506-6800

Yuma County
Department of Health
Office of Vital Records
201 S. 2nd Street
Yuma, AZ 85364
(928) 329-2234

Department of Economic Security

To learn how you may apply for services
to establish paternity and for the address
of the nearest office call:

Department of Economic Security
Division of Child Support Enforcement
Customer Service
P.O. Box 40458
Phoenix, AZ 85067
(602) 252-4045 or
(800) 882-4151





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